

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----x  
Justin Murphy, et al.,

Plaintiff(s),

- v -

City of N.Y., et al.,

Defendant(s).  
-----x

**INITIAL SCHEDULING ORDER**

16 CV 59 (MKB) (PK)

Upon consent of the appearing parties and their counsel, it is hereby **ORDERED** as follows:

**1. MOTIONS**

- a) Defendant(s) shall answer or otherwise move with respect to the complaint by done - Docket No. 10
- b) No additional parties may be joined after 8/31/16. By this date, the parties may either stipulate to the addition of new parties or begin motion practice for joinder in accordance with the Individual Practice Rules of the District Judge assigned to this case.
- c) No amendment of the pleadings will be permitted after 8/31/16 unless information unknown to the parties by this date later becomes available to them. By this date, the parties may either stipulate to amendments of the pleadings or begin motion practice for leave to amend the pleadings in accordance with the Individual Practice Rules of the District Judge assigned to this case.

**2. DISCOVERY**

- a) *Fact Discovery*
  - i. Automatic disclosures required by Rule 26(a)(1) of the Federal Rules of Civil Procedure must be completed by 6/7/16, if not yet completed.

- ii. Initial document requests and interrogatories will be served no later than 6/22/16. If the parties intend to issue interrogatories, they will serve no more than 25 interrogatories. The parties are aware that the presumptive cap on the number of interrogatories is **twenty-five (25)**, including subparts.
- iii. Treating physicians who may be called as witnesses, including as expert witnesses, should generally provide their reports or summaries and be deposed during the fact discovery period.
- iv. Fact discovery closes 1/31/17

b) *Expert Discovery*

- i. The names, qualifications, and area(s) of expertise of experts to be introduced in a party's case-in-chief shall be served on or before ~~11/30/16~~ 10/28/16
- ii. Case-in-chief expert witness reports shall be served on or before 11/30/16.
- iii. Rebuttal expert witness reports shall be served on or before 12/31/16.
- c) All discovery, including deposition of experts, shall be completed on or before 1/31/17.  
(Generally, this date must be no later than 9 months after the initial conference.)
- d) On or before 1/31/17, the parties must file on ECF a joint letter confirming that discovery is concluded.
- e) The above deadlines will not be extended unless the party seeking the extension makes a compelling showing that discovery could not be completed because of unforeseeable circumstances beyond that party's control.

3. **DISPOSITIVE MOTIONS**

- a) Any dispositive motion must be commenced by 2/24/17, within **thirty (30)** days of the close of all discovery.

*Parties must consult the Individual Practice Rules of the District Judge assigned to this case to determine whether a pre-motion conference letter is required before a dispositive motion is*

*filed, whether a Local Civil Rule 56.1 statement must be submitted with the motion, and whether such a motion must be "bundled."*

- b) A proposed Joint Pre-Trial Order must be filed (or if required by the District Judge, a scheduling date must be requested) by 3/31/17, within sixty (60) days of the close of fact discovery.

*This date is not stayed during any dispositive motion practice unless ordered by the District Judge assigned to this case or permitted by the District Judge's Individual Practice Rules.*

#### 4. OTHER MATTERS

- a) Do the parties consent to trial before a magistrate judge pursuant to 28 U.S.C. § 636(c)?

No   /   Do NOT indicate which party has declined to consent.  
Yes           

If yes, fill out the AO 85 (Rev. 01/09) Notice, Consent, and Reference of a Civil Action to a Magistrate Judge form and file it on the Court's ECF system. The form is available at:

<http://www.uscourts.gov/uscourts/FormsAndFees/Forms/AO085.pdf>

- b) The parties should seriously consider engaging in settlement discussions. To facilitate this process, Plaintiff(s) agree(s) to make a demand on or before 6/8/16, and Defendant(s) agree(s) to respond to the demand with an offer on or before 6/17/16.

*After the parties have exchanged an offer and demand, the parties may request a settlement conference by filing on ECF a letter that requests a conference and informs the Court of at least three dates when all counsel and all parties with decision-making authority (including, if necessary, insurance representatives) are available for an in-person conference. Each party will be required to submit a confidential ex parte settlement statement before the conference.*

- c) The Court also makes mediation available through the Court's Alternative Dispute Resolution Program (ADR).

*Mediation Instructions for Counsel are found on the Court's ADR website, at:*

<https://www.nyed.uscourts.gov/adr-forms>.

*For a list of the EDNY's Mediators and their qualifications, go to:*

<https://www.nyed.uscourts.gov/adr/Mediation/displayAll.cfm>.

## 5. CONFERENCES

The Court will set the following dates:

- a) A discovery status telephone conference/in person conference is scheduled for \_\_\_\_\_ at \_\_\_\_\_ .m. If a telephone conference, the call is to be initiated by Plaintiff/Defendant (circle one) to Chambers at 718.613.2400. A joint discovery status letter must be filed on ECF by \_\_\_\_\_ in preparation for the conference.
- b) A final pre-trial conference is scheduled for \_\_\_\_\_ at \_\_\_\_\_ .m.

This scheduling order may be altered or amended only upon a showing of good cause based on circumstances not foreseeable as of the date hereof.

**SO ORDERED:**


\_\_\_\_\_  
PEGGY KUO  
United States Magistrate Judge

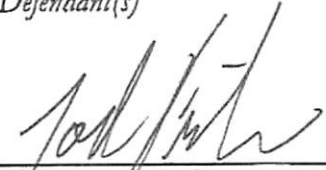
Dated: Brooklyn, New York  
\_\_\_\_\_, 2016

## CONSENTED TO BY COUNSEL:

*Attorney for Plaintiff(s)*

*Attorney for Defendant(s)*

Signature:   
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